

1 PATRICK E. STOCKALPER, SBN 156954
2 MOLSHREE GUPTA, SBN 275101
3 KJAR, MCKENNA & STOCKALPER, LLP
4 841 Apollo Street, Suite 100
5 El Segundo, California 90245
6 Telephone (424) 217-3026
7 Facsimile (424) 367-0400
8 pstockalper@kmslegal.com
mgupta@kmslegal.com

9 Attorneys for Defendants,
10 **COUNTY OF LOS ANGELES and SERGEANT TRAVIS KELLY**
11 (*Defendants is exempt from filing fees pursuant to Government Code § 6103*)

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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

JOSHUA ASSIFF,

Plaintiffs,

v.

COUNTY OF LOS ANGELES;
SHERIFF DEPUTY BADGE
NUMBER 404532; And DOES 1
through 10,

Defendants.

Case No.: 2:22-cv-05367 RGK(MAAx)

**DECLARATION TO MOLSHREE
GUPTA IN SUPPORT OF
DEFENDANTS, COUNTY OF LOS
ANGELES AND SERGEANT TRAVIS
KELLY'S REPLY TO APPLICATION
TO CONTINUE TRIAL AND PRE-
TRIAL DEADLINES**

Action Filed: August 3, 2022
Pretrial Conference: July 10, 2023
Trial Date: July 25, 2023

Assigned to:
Hon. R. Gary Klausner, District Judge
Courtroom 850

All Discovery Matters Referred to:
Hon. Maria A. Audero, District Judge

DECLARATION OF MOLSHREE GUPTA

I, MOLSHREE, ESQ., declare and state as follows:

1. I am an attorney at law duly licensed to practice as such before all the courts of the State of California and am a partner in the law offices of Kjar, McKenna & Stockalper, LLP, attorneys of record for moving parties, COUNTY OF LOS ANGELES and SERGEANT TRAVIS KELLY in the action entitled *Assiff v. County of Los Angeles, et al*, Case Number 2:22-cv-05367 RGK(MAAx).

2. I have personal knowledge of the matters set forth herein, and if called to testify, I could and would competently testify to the facts set forth in this Declaration based upon my personal knowledge.

3. Plaintiff's Opposition makes several key misrepresentations 1) Neither Defendant made an expert witness disclosure on May 10, 2023; 2) Plaintiff properly noticed Defendant Kelly's deposition for April 25, 2023; 3) Plaintiff properly noticed the deposition of the persons most knowledgeable at COLA about certain relevant topics for April 26, 2023; and 4) Plaintiff has always offered to work with Defendants in rescheduling Defendants' depositions.

4. The truth is as follows: 1) both Defendants made their expert witness disclosure on May 10, 2023; 2) Plaintiff did not properly notice either deposition of Defendant Kelly or the deposition of the persons most knowledgeable at COLA – he did not meet and confer with Defendants to request the deponents’ availability and he further violated FRCP 30(b)(6) by failing to “confer in good faith about the matters for examination,” either before or promptly after the notice was served; and 3) Plaintiff’s counsel has not been cooperative or accommodating with respect to the discovery limitations, as indicated by the fact that he proceeded with a non-appearance of these Defendants despite having knowledge of their objections to the depositions and confirmation from defense counsel that these depositions would need to be rescheduled.

5. Defendants have never declined to give discovery in this action; rather, as

1 demonstrated by the Motion, Defendant Kelly has requested accommodations for this
2 medical condition to provide a deposition. In addition, Plaintiff did not properly notice
3 and confer, as required under FRCP 30.

4 6. Moreover, Plaintiff has not been diligent with discovery in this matter.
5 After requesting Plaintiff's availability for deposition multiple times, Defendants were
6 forced to unilaterally notice the deposition to proceed on March 24, 2023 after Plaintiff's
7 counsel failed to respond. Upon receipt of the notice, Plaintiff did not formally object to
8 appearing for his deposition, but Plaintiff's counsel informed the defense that the
9 deposition would not proceed as noticed. Unlike Plaintiff, however, Defendants did not
10 take a non-appearance; rather, Defendants chose to proceed civilly and professionally,
11 and work with Plaintiff's counsel to complete the deposition prior to the discovery cut-
12 off, based on his preference.

13 7. In contrast, Plaintiff's counsel waited almost 5 months after Trial setting to
14 schedule Defendant's deposition, and never once conferred with opposing counsel for
15 the deponents' availability or the subject matter of the entity deposition, as required by
16 the rules. Then, upon receipt of both timely formal objections and notification from
17 counsel as to the unavailability of the deponents on the noticed dates, Plaintiff proceeded
18 with a non-appearance anyway.

19 8. While Plaintiff's counsel cannot be forced to be civil or professional, this
20 Court should certainly not reward his lack of diligence and courtesy with imposition
21 of sanctions against defense counsel.

22 I declare under penalty of perjury under the laws of the State of California that the
23 foregoing is true and correct.

24 Executed on May 12, 2023, at El Segundo, California.

25
26 /s/Molshree Gupta
27 MOLSHREE GUPTA
28

CERTIFICATE OF SERVICE

I am employed in the County of Los Angeles, State of California; I am over the age of eighteen years and not a party to the within action; my business address is 841 Apollo Street, Suite 100, El Segundo, California 90245.

On May 12, 2023, I served the foregoing document described as **DECLARATION TO MOLSHREE GUPTA IN SUPPORT OF DEFENDANTS, COUNTY OF LOS ANGELES AND SERGEANT TRAVIS KELLY'S REPLY TO APPLICATION TO CONTINUE TRIAL AND PRE-TRIAL DEADLINES** on all interested parties in this action by placing a true copy thereof in a sealed envelope addressed as follows:

SEE ATTACHED SERVICE LIST

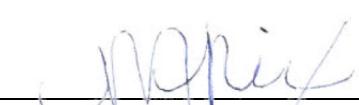
By Mail I caused such envelope(s) to be deposited in the mail at El Segundo, California. The envelope was mailed with postage thereon fully prepaid and addressed to the parties listed on the Service List. I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. It is deposited with U.S. postal service on that same day in the ordinary course of business. I am aware that on motion of party served, service is presumed invalid if postal cancellation date or postage meter date is more than 1 day after date of deposit for mailing in affidavit.

XX By Email Based upon a court order or an agreement of the parties to accept electronic service, I caused the documents to be sent to the persons at the electronic service addresses listed in the Service List. My email address is mnixon@kmslegal.com.

By Personal Service I caused such document to be Personally Served on the parties listed in the Service List.

XX State I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on May 12, 2023, at El Segundo, California.


Maria Nixon

1 **SERVICE LIST**

2 **Assiff, Joshua vs. County of Los Angeles, et al.**

3 Central District- Case No.: 2:22-cv-05367 RGK(MAAx)

4 Thomas M. Ferlauto, Esq. 5 Law Office of Thomas M. Ferlauto, APC 6 25201 Paseo de Alicia, Ste. 270 7 Laguna Hills, CA 92653 8 EM: tmf@lawofficetmf.com	9 10 Attorney for Plaintiff, 11 JOSHUA ASSIFF
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